THE HON'BLE SRI JUSTICE GODA RAGHURAM

-

W.P.NO.3552 OF 2006

Between:

M/s.Blue Moon enterprises, rep. By its managing partner T.Hanumantha Reddy and another

…Petitioner

vs.

The Tirumala Tirupathi Devasthanam, rep. By its Executive Officer, Tirupati

…Respondent.

THE HON'BLE SRI JUSTICE GODA RAGHURAM

-

W.P.NO.3552 OF 2006

ORAL ORDER

The essential grievance in this writ petition is that the respondent has neither finalized nor paid the petitioner the amounts due to him under several contract works that he executed for the respondent-Devastanam. According to the petitioner approximately an amount of Rs.12,73,432/- is due to him under several contracts executed by the petitioner in respect of the works of the respondent-Devastanam, particulars of which are set out in pages 11 to 14 of the material papers annexed to

this writ petition. The petitioner was blacklisted and in a communication dated 20-07-1983 the respondent informed the petitioner that in respect of any work that the petitioner had undertaken with the respondent-Devastanam, steps would be taken to finalize all the contracts by taking measurements for the works so far executed.

For 23 years now there has been no action on this statement of the respondent-Devastanam, is the complaint. It would appear that the order of blacklisting of the petitioner was subsequently set aside and in another suit (filed by the respondent-Devastanam against the petitioner claiming certain amounts paid in excess to the petitioner), the matter was referred to arbitration and an award passed by the Arbitrator assessing the petitioner's liability to the respondent-Devastanam at over Rs.7 lakhs. The award has become final. A decree has also been passed in terms of the award and the petitioner's appeal against the order of the civil Court making the award a decree of the Court has also been dismissed. The petitioner states that since that suit filed by the respondent-Devastanam against him and subsequent proceedings were pending, he did not take active steps to pursue his claims with the respondent-Devastanam in respect of the amounts due to him from the respondent-Devastanam under various contracts.

Essentially the grievances that the petitioner urges in this writ petition arise out of non-statutory contracts between the petitioner and the respondent. The fact that the respondent is a State or an Instrumentality of the State within the meaning of the Article 12 of the Constitution does not derogate from the legal position that the relationship and the projected grievance is one arising out of a non-statutory, post contractual matrix. The disputes have also a potentially contestable factual matrix and are more appropriately adjudicated before a civil Court of competent jurisdiction or an Arbitrator if there be an arbitration clause in the agreement or contract, as the case may be. A public law remedy such as a writ petition under Article 226 of Constitution is however inappropriate as such potentially disputed questions ought not be adjudicated in a proceedings primarily determinable on an affidavit evidence. See also **Radhakrishna Agarwal Vs. State of Bihar**().

For the aforesaid reasons the writ petition is dismissed. The petitioner is at liberty to pursue his appropriate remedies. In the circumstances there shall be no order as to costs.

GODA RAGHURAM,J

2nd MARCH 2006

*TSNR